

**Section III:**  
**AMENDMENT UNDER 37 CFR §1.121 to the**  
**DRAWINGS**

No amendments or changes to the Drawings are proposed.

**Section IV:**  
**AMENDMENT UNDER 37 CFR §1.121**  
**REMARKS**

**Request for Telephone Interview**

Applicants request a telephone interview with the examiner following receipt of the present reply and amendment in order to answer any questions the examiner may have, and to consider any suggestions the examiner may offer. Applicants' agent, Robert H. Frantz, can be reached at 405-812-5613, by the examiner to indicate the examiner's choice of time and date for the telephone interview.

**Rejections under 35 U.S.C. §112 and 35 U.S.C. §101**

In the Office Action, claims 21 - 29 were rejected under 35 U.S.C. §112, second paragraph, for "disclosing only a system containing various data and data objects, but provides no express, implied, or inherent disclosure regarding the structure and function of the system claimed." Further, claims 21 - 20 were rejected under 35 U.S.C. §101 for being directed to non-statutory matter, for reciting "no structure and performs no functions".

Applicants respectfully point out that claims 22 - 29 depend from claim 21, and that claim 21 includes two expressly recited functional and structural elements: (a) a data object selector, and (b) a composite advertisement object renderer. The claim elements specifically recite the functions of these system components. The first functional element, the data object selector, operates on the input data object repositories, and the second functional element produces the tangible output, namely a rendered composite advertisement object for display to a user, based on the results of the first element.

As such, claims 21 - 29 meet the requirements of 35 U.S.C. §112, second paragraph, and 35 U.S.C. §101, in that they expressly recite two functional elements of a system in a definite, and distinct manner. Please consider especially that such computer display outputs have been held by the Board and Courts that they are subject to patent protection whereas they amount to articles of manufacture, and are tangible. Specifically, in accordance with our disclosure, by "provide for consumption" by a user, Applicants' mean a range of presentation technologies, such as still visual presentation, animated or moving visual presentation, audible presentation, or

combinations of these presentations, all of which are tangible products of the invention resulting from the specific functions of the components of the invention.

Reconsideration and withdrawal of these rejections is respectfully requested.

### **Rejections under 35 U.S.C. §102(e)**

In the Office Action, claims 1 - 29 were rejected under 35 U.S.C. §102(e) as being anticipated by US Patent 6,327,574 to Kramer, *et al.* (hereinafter "Kramer").

With particular respect to Claim 2, Applicants have disclosed selection of images or movies which feature "human models" that correspond to the demographic characteristic of the viewer of the produced advertisement. Applicants have provided examples of what is meant by the term "human model" throughout their disclosure, including an example image of a family having young children selected because the viewer is determined to be a member of such a family. This enhances the advertising message by providing images with which the viewer can identify. As such, by "human model", applicants mean the common definition meaning a human person acting as a spokesperson or representative of a product or service, as disclosed in the specification of the present patent application.

Kramer's "consumer models", however, are not images of spokespersons or human representatives of services or products, but instead are *mathematical functions* regarding characteristics of a user or consumer, as explicitly defined by Kramer and consistently used throughout Kramer's disclosure:

A "**model**" is a **mathematical function** which attempts to predict the appeal to the consumer of future transactions based on interests and behavior derived from past transactions, and consists of an **attribute vector** and a set of **mapping functions**:

An "**attribute vector**" is a vector of **data values** such that each element of the vector represents an attribute of the consumer;

A "**mapping function**" is a **mathematical function** that is used to convert between factual information (such as data regarding a transaction or whether an individual is pregnant) and elements of an attribute vector;

(Col. 4, lines 48 - 56, *emphasis added by Applicants*)

As such, Kramer's "consumer models" are not the same as Applicants' claimed "human models". To hold such equivalency would be to improperly import Applicants definitions and disclosure into the cited art.

Kramer discloses "illuminations" (col. 4 lines 64 - 67) as pieces of targeted content, plus matching criteria to determine whether or not a particular illumination correlates to a user's consumer model. Kramer is silent regarding selecting images of human models which match the user's ethnic, economic, age, familial, or other demographic characteristics, but instead discloses selection of company logos, hyperlinks, video advertisements for a product, images of products, coupons, etc.:

Illumination is the process of annotating or replacing sections of documents or other media with (possibly) related multimedia content. Typically the new content expands on the information in the original content and/or provides a more interesting presentation of the information. As examples, the name of a company or product might be illuminated with a **graphical logo** or a **hyperlink** to a home page, a **video presentation**, or a presentation for some **completely different product or company**; an input field in a form may be illuminated by replacing it with the information being requested; an empty spot in a video broadcast may be replaced with **a commercial**. The choice of illumination for a given section may depend on the content of the section, the overall content of the document, the choices made for illuminating other sections, the context such as time and location in which the content is being viewed and attributes or profile of the viewer. The illumination may occur at any point in the production and delivery process for the media. The degree of flexibility and context dependence in the choice of illumination will depend on how early or late in the process the illumination occurs and how much information about the context is available to the illuminator. This flexibility ranges from static content (i.e. content that is the same for all viewers and contexts) to viewer-specific content (i.e. content which may vary for each viewer).  
(Col. 6, lines 22 - 46, emphasis added by Applicants).

The paragraphs following this paragraph in Kramer are replete with examples of such replacements, but are silent as to selecting images or videos of human spokespersons (e.g. our

"human models") on the basis we have disclosed and claimed.

The independent claims have been amended to specify "human model" images or videos, as described and previously claimed in Claim 2. Claim 2, and other claims analogous to Claim 2, have been amended to claim another unique aspect of the present invention regarding refreshing the stale nature of the trained (e.g. "learned") system which has optimized itself for each consumer's preferences and demographics through the presentation of a pseudo-randomly selected image.

For these reasons, and in view of the amendments made herein, Applicants respectfully submit that Kramer fails to teach all of Applicants claimed elements, steps, and limitations, and therefore, these rejections should be withdrawn.

### **Complete Response to All Grounds of Rejection**

It is believed that all grounds of rejection are addressed by the present reply. Should the Examiner believe that one or more grounds are not addressed by the reply, or that one or more grounds were not understood by Applicants, the Examiner is requested to contact Applicants' agent for clarification or filing of a supplemental response.

Respectfully,

A handwritten signature in black ink that reads "Robert Frantz". The signature is stylized with a large, sweeping "R" and "F".

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**FRANKLIN GRAY PATENTS, LLC**